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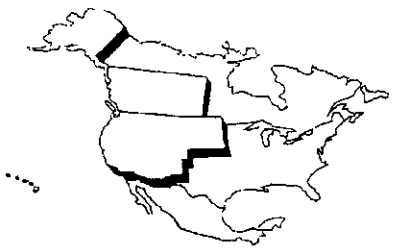

Western Interstate Energy Board/ WINB

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FEB 29 2000

February 24, 2000

Dr. Ivan Itkin, Director
Office of Civilian Radioactive Waste Management
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Dr. Itkin,

On behalf of the Western Interstate Energy Board's High-Level Radioactive Waste Committee, we congratulate you on your recent appointment as head of the Department of Energy's Office of Civilian Radioactive Waste Management. The Western Interstate Energy Board (WIEB), composed of energy advisors to the governors of twelve western states, created the High-Level Radioactive Waste Committee 17 years ago in recognition of the possibility that spent nuclear fuel and high-level radioactive waste (SNF/HLW) might be stored or disposed of at a facility in the West. The Committee consists of nuclear waste transportation experts from state energy, public safety, and environmental agencies from Arizona, California, Colorado, Idaho, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming.

We are writing to convey our comments on two issues: 1) To encourage you to lead the effort to address critical transportation challenges that have been languishing at OCRWM for too many years; and 2) to provide comments on the transportation provisions of the draft *Yucca Mountain Environmental Impact Statement.*

The High-Level Radioactive Waste Committee has focused its attention on transportation issues under the NWPA since 1983. Until 1998, the HLW Committee and our counterparts in the Southern States Energy Board's Advisory Committee on Radioactive Materials Transportation, the Midwestern High-Level Radioactive Waste Committee and the Northeastern High-Level Radioactive Waste Transportation Task Force had been working with DOE to resolve transportation issues for shipments to a repository or interim storage facility. In 1998, OCRWM cut funding to its transportation program and effectively terminated interaction with the regions under existing cooperative agreements.

The HLW Committee has since taken stock of how far along OCRWM is in resolving issues critical to shipments under the NWPA. We have synthesized our findings in the attached report card provided under Part One. You will find that we have very strong concerns in key transportation areas.

As our attached comments on the draft EIS in Part Two indicate, OCRWM's continuing

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1 As our attached comments on the draft EIS in Part Two indicate, OCRWM's continuing systematic denial of the need to address transportation issues is a fundamental flaw which threatens to undermine the NWPA program. We are gravely concerned that the current draft EIS does not meet the requirements of the National Environmental Policy Act (NEPA) in assessing the transportation impacts involved with shipping radioactive waste to Yucca Mountain under the NWPA. In particular, the Committee finds that the EIS completely fails to provide an adequate analysis for the selection of transportation modes and routes.

As the Committee has stated many times in the past, mode and route analysis is one of the most crucial aspects of SNF/HLW transportation planning. The importance of conducting timely and defensible mode and routing analysis and selection is also reflected in WGA Resolution 99-014 passed last June by the Western Governors' Association. This resolution is included in Attachment A. Until DOE establishes mode and route selection methodologies which adequately address safety issues, further crucial steps in the development of a working transportation plan, such as the provision of funding to states and tribes under Section 180(c) of the NWPA, cannot be taken.

2 The Committee urges OCRWM to issue a revised Yucca Mountain EIS that includes a
3 full analysis of transportation modes and routes for NWPA shipments. We also urge OCRWM to reopen a constructive dialogue with states and tribes that will lead to the development of a safe and effective OCRWM transportation program.

Sincerely,

Ken Niles, Co-Chair
WIEB High-Level Radioactive Waste Committee

Captain Allan Turner, Co-Chair
WIEB High-Level Radioactive Waste Committee

cc: Ms. Wendy R. Dixon, EIS Program Manager
Mr. Thomas Hughes, Chair, Northeast High-Level Radioactive Waste Task Force
Mr. Frank Moussa, Chair, Midwestern High-Level Radioactive Waste Committee
Mr. Harlan Keaton, Chair, Southern States Energy Board Radioactive Materials Transportation Committee

2

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Part One: WIEB High-Level Radioactive Waste Committee Report Card of DOE's SNF/HLW Transportation Program

WESTERN STATES POLICY	*DOE PROGRAM*	GRADE
1) Mode and Route Analysis WGA Resolution 99-014: 4 DOE must commit to: a) prepare a comprehensive transportation plan that includes the analysis of all needed transport-safety activities in a single document; b) develop responsible criteria for selecting shipping routes; and c) develop a sound methodology for evaluating optional mixes of routes and transportation modes.	DOE's last attempt at defining a routing methodology was in 1995 when it released its Highway and Rail Routing Discussion Papers. The Highway Paper considered only time, distance, total population, and urban populations while failing to address important safety issues including: minimizing truck accident rates, minimizing emergency response time, avoiding difficult to evacuate populations, minimizing transit through inclement weather, avoiding "high hazards", and imposing time-of-day travel restrictions. The Committee found that "the proposed rail routing methodology itself is little more than an effort to simulate current private railroad practices; it does not evaluate the safety of such practices compared with other route selection methodologies." For example, the paper provided no guidance on how DOE will determine when to use general freight, dedicated trains, or special train service, and how that choice may affect routes selected. OCRWM has currently shelved any further work on routing issues, despite the fact that pending legislation could force OCRWM to begin shipping fuel to an interim storage facility by 2006.	**D -**

WESTERN STATES POLICY	DOE PROGRAM	GRADE
2) Financial and Technical Assistance to States/Tribes [NWPA Section 180(c)] WGA Resolution 99-014: 5 Critical steps need to be taken to prepare states and tribes for shipments: a. Appropriate funding for technical assistance and training programs for corridor states/tribes; b. Implement policies and procedures for Section 180(c) to assure that states are fully compensated for all training, preparedness, and response costs. Section 180(c) funding formulae must not be based on arbitrarily established DOE criteria, but on state-specific need assessments funded under Section 180(c); c. Adopt *in regulations* a mutually acceptable assistance program that would: 1) Prohibit shipments if 180(c) funds/assistance have not been made available to states/tribes at least three years prior to the start of shipments, notwithstanding whether such facilities are publicly or privately owned or whether there are any sudden changes in DOE's shipping schedule; 2) Provide for the development and funding of state/tribal plans that identify: the minimum elements necessary to ensure safe routine transportation and procedures for dealing with emergency response situations, the current capabilities along each corridor, the activities needed to achieve minimum elements, and performance measures to evaluate programs implemented under the plan; 3) Provide annual implementation grants to states/tribes with 75 percent of the funds allocated by the number of projected shipment miles in the jurisdiction and 25 percent allocated to ensure minimum funding levels and program capabilities; 4) Provide flexibility in the expenditure of Section 180(c) funds pursuant to the state or tribal plans; 5) Establish Regional Training Advisory Teams of states and tribes to review and coordinate plans along shipment corridors and a National Training Advisory Committee to report to DOE on progress and needed additional actions.	DOE's most recent attempt to define a Section 180(c) policy was a *Notice of Revised Proposed Policy and Procedures* released in July 1998. DOE had released several previous attempts at defining a 180(c) policy, and some positive progress was made. For instance, the latest *Notice* discarded a rigid and unworkable funding "formula" which had been advocated by the previous *Notice of Proposed Policy and Procedures*. The Committee noted that "Allowing states and tribes to determine their needs in preparing for NWPA shipments as part of the grant application process represents a step in the right direction." However, the Committee found the 180(c) policy outlined in the July 1998 Notice unacceptable because it ignored numerous key policy decisions made by Western Governors, including: 1) failure to provide for the development by DOE, in cooperation with states and tribes of a methodology and criteria for cooperatively identifying modes and routes to be used to transport SNF/HLW; 2) failure to guarantee that no shipments will occur unless Section 180(c) funds and assistance have been made available to states and tribes at least three years prior to the commencement of shipments; 3) failure to provide an acceptable contingency plan in the event adequate funding and assistance has not been provided to states and tribes; 4) failure to provide that Section 180(c) funds will be available regardless of whether shipments are made to a facility operated by the Department of Energy or another entity; and 5) failure to commit to establishing the Section 180(c) grant program in regulations. ➤ DOE is continuing work through its National Transportation Program to coordinate possible consolidated transportation grants for states and tribes. However, OCRWM has currently shelved any further work on 180(c) issues, despite the fact that pending legislation could force OCRWM to begin shipping fuel to an interim storage facility by 2006.	C-

WESTERN STATES POLICY	*DOE PROGRAM*	GRADE
3) The WIPP Model and Effective Coordination with States and Tribes WGA Resolution 99-014: 6 Early coordination and effective communications with state, tribal, and local governments is essential to the ultimate success of any nuclear waste transportation safety program. DOE should look to the WIPP program as a model in developing: a) a safety and public information program; b) a framework for transportation planning similar to the WIPP Program Implementation Guide; c) a proposed set of primary and secondary shipping routes by working through its regional cooperative-agreement groups. DOE should require the use of these routes through mandatory contract provisions with any private contractors; d) flexible funding resources and cooperative agreements between their civilian, power and defense agencies as a means for supporting WGA and DOE application of lessons learned through the WIPP safety program.	Despite receiving clear policy direction on this issue not only from western states, but from *all* four regional cooperative agreement groups, DOE has given no sign that it intends to model key elements of its OCRWM transportation planning process after the WIPP program. In fact, in its latest RFP for privatizing transportation services, OCRWM made no provision for a DOE analysis of routes. Instead, the RFP calls on the contractor to prepare a Transportation Plan that "sets forth" proposed transportation routes. The RFP provided no requirements for the methodology by which the contractor is to set forth its proposed routes. As the Committee has previously stated, a private contractor, motivated primarily by profit and cost-efficiency, will be most likely to choose routes based solely on minimizing miles traveled, time in transit, and rail tariffs. Other risk factors such as accident rates, potential property exposure, transit through sensitive areas, emergency response times, difficult to evacuate populations, dangers posed by bridges and tunnels, inclement weather, high-hazards, and time-of-day transit restrictions are not likely to be adequately addressed, if they are considered at all. Designating routes in this fashion is unacceptable to western states. OCRWM has taken no steps towards modeling other aspects of the WIPP program, such as developing a document similar to the WIPP Program Implementation Guide. In addition, OCRWM has terminated funding of work with its regional cooperative agreement groups on high-level radioactive waste transportation issues. The Committee is encouraged by DOE's current efforts to develop and revise its transportation protocols. This effort could result in some of the WIPP protocols being adopted for OCRWM shipments.	F

WESTERN STATES POLICY	*DOE PROGRAM*	GRADE
4) Full Scale Cask Testing WGA Resolution 99-014: 7 DOE must commit to conducting full-scale testing of casks to be used to transport SNF/HLW.	DOE has indicated that it does not intend to conduct full-scale destructive testing of SNF/HLW transportation casks.	**F**
5) Privatization WGA Resolution 99-014: 8 In any NWPA shipping campaign, DOE cannot privatize or delegate to a contractor key transportation responsibilities, including but not limited to: a. Interaction with states and tribes; b. Selection of transportation modes/routes; c. Preparation of EIS' addressing transportation concerns; d. Selection of transportation casks; e. Working with states/tribes to develop acceptable transportation communication, training and security plans; and f. Decisions regarding the provision of adequate technical assistance and funding to states/tribes.	DOE released three versions of its *Request for Proposals (RFP) for the Acquisition of Waste Acceptance and Transportation Services for the Office of Civilian Radioactive Waste Management*. OCRWM made some improvement in its most recent RFP, which was issued November 1997. The Committee was especially pleased with DOE"s general statement in the current RFP that it will retain responsibility for policy decisions, stakeholder relations, and implementing Section 180(c) of the NWPA. However, the Committee was highly concerned that many critical policy decisions would be improperly delegated to the contractor, such as the responsibility for selecting modes, routes and casks as well as the development of institutional plans and the preparation of an environmental impact statement addressing transportation concerns. The Committee stated that a transportation system designed in this fashion would undermine public confidence and could jeopardize the safety of citizens along transportation corridors. The Committee requested that OCRWM release another draft of the RFP clarifying these points. OCRWM has shelved further work on the RFP.	**D+**

WESTERN STATES POLICY	*DOE PROGRAM*	GRADE
6) Assessing Terrorism Risks WGA Resolution 98-008: 9 DOE should incorporate terrorism/sabotage risk management and countermeasures in all DOE transportation plans relating to operation of a repository, interim storage facility, and/or intermodal transfer facility, including liability for costs and damages resulting from terrorism/sabotage against nuclear waste shipments.	To date, DOE has said that it would rely on regulations and the security oversight of the Nuclear Regulatory Commission to ensure the safety of its OCRWM shipments. No commitments to extra-regulatory measures have been made.	**F**

Part Two: WIEB High-Level Radioactive Waste Committee Comments on the Draft Yucca Mountain Environmental Impact Statement

Following are comments of the Western Interstate Energy Board's High-Level Radioactive Waste Committee (the Committee) concerning the Department of Energy's July 1999 draft *Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada.* The Committee's comments focus on the analysis and selection of transportation modes and routes. Mode and route selection has been a consistent high priority for the Committee and the Western Governors' Association in the development of any Nuclear Waste Policy Act transportation program.

1) DOE Needs to Conduct Route-Specific Analyses for NWPA Shipments

10 The Committee is extremely disappointed that the Department of Energy appears to be breaking the promise it made years ago to stakeholders that it would conduct comprehensive assessments of potential transportation routes to be used in transporting spent nuclear fuel and high-level radioactive waste to any potential repository. Specifically, in Volume III of DOE's Yucca Mountain Environmental Assessment, which was conducted in 1986, DOE stated that "[t]he DOE believes that the general methods and national average data used are adequate for this stage of the repository-siting process. Route-specific analyses and an evaluation of the impacts on host States and States along transportation corridors will be included in the environmental impact statement. The route-specific analyses to be performed in the future will proceed in the following sequence: (1) define important parameters; (2) gather data; (3) develop models as required; (4) perform analysis; (5) consider mitigating measures; (6) report results."

The draft EIS completely fails to meet the promise made in the 1986 Environmental Assessment, and provides no route-specific analyses and no specific evaluation of the impacts on states along transportation corridors. Instead, the draft EIS states only that "[a]t this time, about 10 years before shipments could begin, DOE has not determined the specific routes it would use to ship spent nuclear fuel and high-level radioactive waste to the proposed repository...this analysis used current regulations governing highway shipments and historic rail industry practices to select existing highway and rail routes to estimate potential environmental impacts of national transportation. Routing for shipments of spent nuclear fuel and high-level radioactive waste to the proposed repository would comply with applicable regulations of the Department of Transportation and the Nuclear Regulatory Commission in effect at the time the shipments occurred..." (EIS, Appendix J, J-23)

2) DOE Needs to Designate SNF/HLW Shipment Corridors to Allow States and Tribes to Properly Focus Training and Emergency Response Resources

11... As the Committee has stated to DOE numerous times in the past, western states believe that reliance on current highway routing regulations and historical rail routing practices to determine transportation routes will jeopardize the health and safety of its citizens and would promote higher costs and reduced efficiency. Highway routing regulations, for example, would allow the use of virtually the entire Interstate highway system for nuclear waste shipments to Yucca Mountain. Especially when shipments cover long distances, as would be the case with NWPA shipments, multiple combinations of Interstate highways would be allowable under the DOT regulations. Forcing states and tribes to prepare for nuclear waste shipments along multiple routes would be extremely costly and inefficient and could hinder the effectiveness of emergency response in the event of a transportation accident.

The importance of reducing the total number of highway routes which can be utilized for shipments under the NWPA has also been recognized by the Committee's counterparts from across the country, including the Council of State Governments' Midwestern High-Level Radioactive Waste Committee and Northeastern High-Level Radioactive Waste Transportation Task Force; and the Southern States Energy Board's Advisory Committee on Radioactive Materials Transportation and Transuranic Waste Transportation Working Group. Together these groups include radioactive waste transportation experts representing more than forty states.

The regional groups sent a consensus letter in 1998 to the Department of Energy stating that "the

11 cont. multiplicity of available routes, coupled with the scarcity of resources for training state and local personnel, makes it imperative that the Department adopt a more coordinated approach to selecting the routes for these shipments." The letter also outlined a routing approach that is aimed at achieving three primary goals, including: 1) making the federal government, rather than a private carrier, ultimately accountable for route selection; 2) permitting the most efficient use of federal and state training resources by reducing the total number of routes; and 3) providing states and communities sufficient time to prepare for shipments by identifying national routes well before shipments begin. The letter is available on the Internet at http://www.westgov.org/wieb/reports/consens.htm.

With regard to rail routing, the historical route selection practices of railroads are primarily based on commercial needs and not necessarily on safety concerns. For example, in order to maximize revenues, it is standard industry practice for an originating railroad to maximize the distance a shipment will travel on its system before transferring the shipment to the next railroad. Western states do not believe that reliance on such practices will result in the safest routes being selected.

3) DOE Needs to Analyze and Select the Transportation Mode for NWPA Shipments

12 The draft EIS also fails to appropriately analyze and select a preferred transportation mode for NWPA shipments. The choice between the use of rail (and type of rail service) or truck for the transport of nuclear waste under the NWPA will have a major impact on the number of shipments which will traverse western states. Assuming, for instance, that DOE operates under the capabilities currently available, an estimated 79,300 legal weight truck casks and 12,600 rail casks would be shipped on the nation's highways and railroads. Use of high capacity legal-weight truck casks, if available and used consistently, could reduce highway transport to 31,400 casks shipped. Were DOE to rely heavily on rail, however, highway shipments could be significantly reduced to approximately 1,150 high-capacity cask shipments.[1]

Modal selection also fundamentally affects the choice of routes which will be used and populations affected. For instance, in many cases the West's major urban areas grew around rail centers. If rail is selected as the mode of choice, it is likely that thousands of nuclear waste shipments will pass through some of the region's most heavily populated areas, with limited alternatives for avoiding these areas.

The analysis in the draft EIS, however, is limited to two generic analyses, including a "mostly legal-weight truck" and "mostly rail" scenario. The EIS acknowledges its own limitations in somewhat peculiar fashion by stating that "the Department does not anticipate that either the mostly legal-weight truck or the mostly rail scenario represents the actual mix of truck or rail transportation modes it would use. Nonetheless, DOE used these scenarios as a basis for the analysis of potential impacts to ensure the analysis addressed the range of possible transportation impacts." (Draft EIS, 6-18) Given the fact that modal selection will have a major impact on routing decisions and on the populations impacted by NWPA shipments, western states believe it to be extremely poor judgement to attempt to base the analysis of NWPA modal selection on data which, admittedly, has very little basis in reality.

Conclusion

13 The WIEB High-Level Radioactive Waste Committee recommends that DOE abandon its generic assessment of transportation impacts and revise the current draft EIS to include route and mode-specific analyses and an evaluation of the impacts on states along transportation corridors. Without such route and mode-specific assessments, the Committee believes that the draft EIS fails to meet the requirements of NEPA to properly assess the transportation-related impacts of potential radioactive waste shipments under the NWPA program.

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1 *The Transportation of Spent Nuclear Fuel and High-Level Waste: A Systematic Basis for Planning and Management at National, Regional, and Community Levels*, Planning Information Corporation (September 1996).

ATTACHMENT A

Policy Resolution 99 - 014

Transportation of Spent Nuclear Fuel and High-Level Radioactive Waste

Western Governors' Association

June 15, 1999

SPONSORS: Governors Guinn and Leavitt

A. BACKGROUND

1. This nation must dispose of significant amounts of spent nuclear fuel and high-level radioactive waste.

2. The federal government is responsible for the disposal of these wastes under the Nuclear Waste Policy Act (NWPA).

3. Plans of the federal government place a disproportionate share of the national burden of nuclear waste transportation on Western states.

4. The Governors recognize that a transportation program developed and implemented cooperatively with Western states, such as that used for recent cesium shipments and that being planned for shipments to the Waste Isolation Pilot Plant, can be developed with proper planning and commitment by the federal government.

5. Litigation and proposed federal legislation have increased pressure on the federal government to accept private reactor spent nuclear fuel under the NWPA, well before the Department of Energy's (DOE) plans to accept waste in 2010.

6. The analysis by and experience of Western states show that adequate preparations cannot be in place to accommodate large scale shipments for at least three years following the designation of routes and shipping modes.

7. For many years, Western Governors have consistently urged the federal government to develop a comprehensive transportation plan, including the preparation of contingency plans for events such as the early shipment of waste.

8. DOE has not prepared a comprehensive transportation plan and has no effective contingency plans to accommodate shipments.

9. The Secretary of Energy has recently proposed a plan whereby DOE would provide for temporary storage of spent fuel at commercial nuclear power plant sites until such a time as a permanent repository is available for disposal of the spent fuel. This plan would compensate utility companies for the cost of storing the waste on-site, address DOE's failure to meet its deadlines under the Nuclear Waste Policy Act of 1982, as amended, and

provide much needed flexibility within the federal high-level waste program for carrying out scientific activities and conducting required transportation planning.

B. GOVERNORS' POLICY STATEMENT

Storage and Disposal

1. The Western Governors' Association supports the national policy for permanent, safe, geologic disposal as an appropriate means of managing and finally disposing of spent nuclear fuel and high-level radioactive waste.

14 2. The Governors strongly encourage the U.S. Department of Energy to work cooperatively with the states in implementing this policy; to ensure the safe storage, transportation and disposal of spent nuclear fuel and high-level radioactive waste; and to comply with agreements which have been negotiated and entered into by a state's governor regarding the management, transportation and storage of spent nuclear fuel and high-level radioactive waste. Moreover, the federal government should not site such waste in a state for interim storage without written agreement from the affected states' governors.

15 3. The Governors support efforts by the federal government to examine alternative waste acceptance options, including but not limited to, providing funds to utilities for expanded on-site storage and taking title to spent nuclear fuel at individual reactor sites. The search for alternatives must not be construed as lessening the need to develop a permanent solution to the management of spent nuclear fuel.

Transportation

4. The Governors' objective is the safe and uneventful transport of nuclear waste which must be paramount in all federal policies regarding nuclear waste transportation.

16 5. The Governors find that as a result of federal government inaction and delays, and inadequate strategic planning involving stakeholders, a national transportation system for commercial spent nuclear fuel is not presently available and would, at the earliest, be available no sooner than three years after routes have been identified and technical assistance and funds have been provided to states.

17 6. Early coordination and effective communications with state, tribal, and local governments is essential to the ultimate success of any nuclear waste transportation safety program.

18... 7. In order to develop a safe and effective system for accepting commercial spent nuclear fuel and high-level radioactive waste (HLW), the federal government must expand its focus beyond siting, and develop, in coordination with the states and tribes, a logical and timely transportation program. This requires DOE policy commitments to:

   a. Fix the shipping origins and destination points as early as possible;

   b. Ensure the availability of rail and truck shipping casks;

   c. Conduct full-scale testing of casks to be used to transport spent nuclear fuel and high-level radioactive waste;

18 cont.

d. Prepare a comprehensive transportation plan that includes the analysis of all needed transport-safety activities in a single document;

e. Develop responsible criteria for selecting shipping routes; and

f. Develop a sound methodology for evaluating optional mixes of routes, and transportation modes.

19 8. The Governors believe that DOE must look to the Waste Isolation Pilot Plant (WIPP) transportation and cesium capsule return programs for guidance in conducting any large scale radioactive waste shipping campaign:

a. A safety and public information program similar to that developed with Western states for shipments of transuranic waste to WIPP and cesium capsules to Hanford should be utilized for all route-controlled DOE shipping campaigns. Safety programs should be evaluated and improved as needed.

b. The WIPP Transportation Safety Program Implementation Guide is an excellent framework for transportation planning, and a similar document should be used as a base document for DOE's various transportation programs.

c. DOE should follow the WIPP example of working through its regional cooperative-agreement groups to propose a set of shipping routes to affected states and tribes for their review and comment. This process should result in the identification of a set of primary and secondary routes from each site of origin to each destination. DOE should require the use of these routes through mandatory contract provisions with any private contractors.

d. DOE should work to identify flexible funding resources and cooperative agreements between their civilian, power and defense agencies as a means for supporting WGA and DOE application of lessons learned through the WIPP safety program to other DOE shipping campaigns.

20 9. DOE shall operate a tracking system capable of monitoring the location and status of the vehicle and cask. The system should have a communications capability for notifying the vehicle operator, DOE, and states and tribes of the location, potential bad weather and road conditions, and occurrence of incidents.

Financial and Technical Assistance Responsibilities

21 10. Governors believe it is the responsibility of the generators of spent nuclear fuel and HLW and the federal government, not the states and tribes, to pay for all costs associated with assuring safe transportation, responding effectively to accidents and emergencies that will inevitably occur, and otherwise assuring public health and safety.

22... 11. The Governors insist that no shipments of spent nuclear fuel and HLW be made to storage facilities or a repository, until DOE has cooperatively identified shipping routes and

22 cont. Section 180 (c) funds and assistance have been made available to states at least three years prior to the start of shipments, notwithstanding whether such facilities are publicly or privately owned or whether there are any sudden changes in DOE's shipping schedule.

12. Critical steps need to be taken to prepare states and tribes for shipments, including but not limited to:

a. Appropriate funds for technical assistance and training programs for states and tribes through whose jurisdictions spent nuclear fuel and HLW are to be transported;

b. Implement policies and procedures for Section 180 (c) of the NWPA to assure that states are fully compensated for all training, preparedness, and response costs associated with spent nuclear fuel and HLW shipments within their borders. Funding formulae for Section 180 (c) assistance to states must not be based on arbitrarily established DOE criteria, but on state-specific assessments of need funded under Section 180 (c);

c. Adopt regulations to implement a mutually acceptable program of technical assistance and training funds. Such regulations should:

1. Provide for the development and funding of state and tribal plans that identify the minimum elements necessary to ensure safe routine transportation and procedures for dealing with emergency response situations, the current capabilities along each corridor, the activities needed to achieve minimum elements, and performance measures to evaluate programs implemented under the plan.

2. Provide annual implementation grants to states and tribes with 75 percent of the grant funds allocated according to the number of projected shipment miles in the jurisdiction and 25 percent of the funds allocated by the Secretary to ensure minimum funding levels and program capabilities among impacted states and tribes.

3. Provide flexibility in the expenditure of Section 180 (c) funds by states and tribes pursuant to the provisions of the state or tribal plan.

4. Establish Regional Training Advisory Teams of states and tribes to review and coordinate plans along shipment corridors and a National Training Advisory Committee to report to the Department of Energy on progress and needed additional actions.

Privatization

23... 13. In any Nuclear Waste Policy Act shipping campaign, the Department of Energy cannot privatize or delegate to a contractor key transportation responsibilities, including but not limited to:

a. Interaction with states and tribes;
b. Selection of transportation modes and routes;

23 cont.

c. Preparation of environmental impact statements addressing transportation concerns;
d. Selection of transportation casks;
e. Working with states and tribes to develop acceptable transportation communication, training and security plans; and
f. Decisions regarding the provision of adequate technical assistance and funding to states and tribes to prepare for shipments.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. This policy resolution shall be conveyed to the President of the United States, the Secretaries of Energy and Transportation, the chairman of the Nuclear Regulatory Commission, and the appropriate members and committees of Congress.

2. The WGA staff, in cooperation with the Western Interstate Energy Board, shall monitor implementation of this resolution and inform the Governors of progress towards meeting the Governors' objectives. WGA and WIEB are to provide the federal government and nuclear utility industry with assistance in the development and implementation of transportation, communications and security plans for spent nuclear fuel and high-level radioactive waste.

Originally adopted as Policy Resolution 98 - 005 in 1998.

Governors Kitzhaber and Kempthorne voted in opposition to amending 98-005 as adopted in 1998.

Approval of a WGA resolution requires an affirmative vote of two-thirds of the Board of the Directors present at the meeting. Dissenting votes, if any, are indicated in the resolution. The Board of Directors is comprised of the governors of Alaska, American Samoa, Arizona, California, Colorado, Guam, Hawaii, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Northern Mariana Islands, Oregon, South Dakota, Texas, Utah, Washington and Wyoming.

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June 15, 1999